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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/253,418	02/19/1999	WILLIAM PAUL SHERER	9764-82-1	5569

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JOHN P. WAGNER
WAGNER MURABITO & HAO LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

EXAMINER

NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 10/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/253,418

Applicant(s)

SHERER ET AL.

Examiner

Toan D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 103

1. The following is a quotation of 35 U.S.C. 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-3 and 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wartski et al. (U.S. Patent 5,732,082) in view of Backes et al. (U.S. Patent 5,818,838).

For claims 1, 6, 9-11 and 13, Wartski et al. disclose system and method for multi-frame received queuing with sorting in an asynchronous transfer mode (ATM) system, comprising:

an interface for receiving data, said data received for a plurality of destinations, wherein said data for a particular destination is received having a particular relationship among individual data units (figure 2, col. 5 lines 5-9);

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an interface for transmitting packets of data over a network (col. 5 lines 11-13);

a mechanism for handling units of data received based on a destination address of said packets before transmitting on said network in order to improve overall network operation such that when said data is received at said destination, said individual data units have the same relationship as when received by said interface for receiving data (figure 4, col. 5 line 51 to col. 6 line 4).

However, Wartski et al. do not explicitly disclose data received based on a destination address of said packets. In an analogous art, Backes et al. disclose data received based on a destination address of said packets (col. 2 lines 16-21). In claim 13, Backes et al. disclose further a plurality of nodes, wherein at least one node in said plurality can transmit data units and a plurality of nodes can receive data units (figure 1, col. 1 line 48 to col. 2 line 3 and col. 2 lines 16-48).

One skilled in the art would have recognized such packet for transmission (col. 2 lines 21-27) to use teaching of Backes et al. in the system of Wartski et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the combined method and apparatus for transparent intermediate system based filtering on a LAN of multicast packets as taught by Backes et al. in system and method for multi-frame received queuing with sorting in an asynchronous transfer mode (ATM) system of Wartski et al.

For claims 2 and 7, Backes et al disclose said handling is determined solely by the destination address of said packets (col. 2 lines 16-21).

For claims 3 and 8, Backes et al. disclose said handling is determined partly by the destination address of said packets and partly by when a packet is received by said interface for

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receiving data so that packets are distributed over all destinations while minimizing the time to transmission from when a packet is received by said interface for receiving data (col. 2 lines 16-33 and col. 4 lines 7-10).

For claim 12, Backes et al. disclose said scheduling is determined partly by the destination address of said packets and partly by when a packet is received by said interface for receiving data so that packets are distributed over all destinations while minimizing the time to transmission from when a packet is received from the host for a given packet (col. 2 lines 16-33 and col. 4 lines 7-10).

For claims 14-15, Backes et al. in view of Wartski et al. disclose said transmitting node network interface has some knowledge about network topology and uses that knowledge to schedule packets that are transmitted on said media, and transmitting node network interface schedules packets transparently to said transmitting node (col. 2 line 50 to col. 4 line 10).

Response To Arguments

3. Applicant's arguments filed on July 23, 2002 have been fully considered but they are not persuasive.

With respect to claims 1 and 13, in response to the Applicant's argument that the prior art fails to teach the step of data received based on a destination address of said packets, Applicant's attention is directed to Backes et al. patent at col. 11 lines 35-37 where Backes et al. clearly teach that data received based on a destination address of said packets.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

TN
T.N.



ALPUS H. HSU
PRIMARY EXAMINER